Ministry of the Solicitor General

Public Safety Division

25 Grosvenor St.
12th Floor
Toronto ON M7A 2H3

Telephone: (416) 314-3377
Facsimile: (416) 314-4037

Ministère du Solliciteur général

Division de la sécurité publique

25 rue Grosvenor
12e étage
Toronto ON M7A 2H3

Téléphone: (416) 314-3377
Télécopieur: (416) 314-4037

Ontario

MEMORANDUM TO: All Chiefs of Police and
Commissioner Thomas Carrique
Chairs, Police Services Boards

FROM: Richard Stubbings
Assistant Deputy Minister
Public Safety Division

SUBJECT: **Declaration of Emergency under the *Emergency Management and Civil Protections Act***

DATE OF ISSUE:	**February 12, 2022**
CLASSIFICATION:	**General Information**
RETENTION:	**Indefinite**
INDEX NO.:	**22-0017**
PRIORITY:	**High**

On February 11, 2022, the Premier of Ontario declared a provincewide emergency as a result of interference with transportation infrastructure and other critical infrastructure that is occurring across the province, which is preventing the movement of people and the delivery of essential goods and services.

The government also made an emergency order in connection with the declared emergency, which came into effect today.

Critical Infrastructure and Highways - O. Reg. 71/22

The emergency order prohibits the interference with critical infrastructure which is defined as:

- 400-series highways;
- airports;
- canals;
- hospitals;
- infrastructure for the supply of utilities such as water, gas, sanitation, and telecommunications;
- international and interprovincial bridges and crossings;
- locations where COVID-19 vaccinations are administered;
- ports;
- power generation and transmission facilities; and

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- railways.

Under this emergency order, no person shall:

- prevent someone from travelling to or from critical infrastructure;
- prevent the ordinary use of critical infrastructure;
- cause either of the above to occur, whether directly or indirectly;
- assist an individual to knowingly help them do anything above, including providing supplies, fuel, or other materials; or
- prevent someone from travelling to or from walkways, bridges, and highways (other than 400-series highways, which are already captured as "critical infrastructure"), or prevent the ordinary use of them, if doing so would:
    - prevent the delivery of essential goods or services,
    - severely disrupt ordinary economic activity, or
    - seriously interfere with the safety, health, or well-being of members of the public.

The order does not prohibit an impediment that is trivial, transient, or minor in nature or where users of the highway, walkway or bridge can easily avoid the impediment.

Enforcement of Order

The order gives police officers and other provincial offences officers the power to do the following when they have reasonable grounds to believe that an individual is not complying with the requirements listed above:

- order the individual to stop contravening the emergency order;
- if there is more than one individual, order the individuals to disperse;
- order the individual to remove any object the individual used to contravene the order (e.g., a motor vehicle), whether the object was put there before or after this emergency order came into effect; or
- remove the object if the individual refuses to remove the object.

The order requires a person to comply with any of the above orders issued by provincial offences officers.

The order also gives the Registrar of Motor Vehicles and provincial offences officers the power to order owners or operators of vehicles contravening the order to remove their vehicles, requires the owners and operators to comply, and permits the removal of the vehicles if they don't comply.

Penalties

As you are aware, for offences under the EMCPA, individuals can either be issued a ticket for a set fine amount established by the Chief Justice as listed below, or be served with a summons under Part I of the *Provincial Offences Act* (POA), or have an information laid under Part III of the POA, in which case the court would impose a penalty upon conviction – subject to the maximum penalty of a fine of not more than $100,000 and not more than one (1) year imprisonment.

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- Fail to comply with an order: $750
- Obstruct any person exercising a power in accordance with an order: $1,000
- Obstruct any person performing a duty in accordance with an order: $1,000.

Please be advised the emergency order does not create a power of arrest. However, a provincial offences officer who is a peace officer (e.g., police officer, special constable, First Nations Constable) and who can arrest under the *Criminal Code* (Canada) for the offence of obstructing a peace officer, would be able to arrest a person for obstruction when applicable.

Please also be aware that the power to require individuals to identify themselves under O. Reg. 8/21 was created in relation to the enforcement of COVID-19 related orders. No comparable power has been created in relation to the new emergency order.

Suspension and/or Cancellations of Licenses, Plates and Commercial Registration

The Ministry of Transportation (MTO) has developed processes to support the police in response to the current emergency order.

Effective February 12, 2022, the following permissions may be suspended or cancelled by the Registrar or Deputy Registrar of Motor Vehicles in accordance with the emergency order:

- Commercial Vehicle Operator's Registration (CVOR) certificates;
- Drivers Licences (DL) (whether Ontario licences or out of province licences); and
- Commercial and Passenger Vehicle plates.

Police officers and other provincial offences officers may issue notices of the penalties/charges by accessing and completing the **Emergency Order Form.**

MTO is providing this tool to police services to assist them in escalating their enforcement efforts, if necessary. Following receipt, the Deputy Registrar of Motor Vehicles will review the information, and action may result in suspension/cancellations of privileges noted above.

Suspensions will be effective immediately upon the Deputy Registrar decision and for at least seven (7) days. Permissions will be automatically reinstated for DL and CVOR; for plates, the 7-day suspension will be lifted automatically.

In addition, in accordance with the emergency order:

- a person has no right to be heard before the suspension or cancellation is issued;
- notice of a suspension or cancellation can be given by any means that the Registrar or Deputy Registrar believes may be reasonable to bring it to the attention of the person affected; and
- the suspension or cancellation takes effect on the date and at the time set out, whether or not the person affected has received the notice; and
- the order does not contain a provision providing for any appeal.

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CVOR staff will apply the suspension or cancellation and issue notices by email to the impacted certificate holder as soon as it is processed. This includes the suspension or cancellation of commercial vehicle plates associated with that CVOR.

Driver licence and passenger plate suspensions and cancellations will apply once they are processed; the driver and vehicle record will be updated the next business day. Notices will also be mailed the next business day.

Additionally, out of province vehicles have been identified as participating in ongoing protests. It should be noted the order does not apply to a safety fitness certificate from another province.

Please contact Sean Doussept, Deputy Registrar of Motor Vehicles at sean.doussept@ontario.ca or 289-219-2110 for further information.

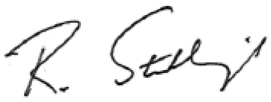
Reporting Enforcement Data under the EMCPA

The Ministry of the Solicitor General will be updating the COVID-19 enforcement data reporting template to reflect this new order. Analysis of enforcement data that your police service provides to the ministry continues to support data-driven decision-making. Further information will be communicated to you shortly.

Finally, please be advised that the ministry continues to work with enforcement ministries and municipalities to collaborate and information share, including through the dedicated 1-800 Enforcement Support Line and email resource at EssentialWorkplacesSupport.SolGen@ontario.ca.

Thank you for your continued support.

Sincerely,



Richard Stubbings
Assistant Deputy Minister
Public Safety Division

Attachment

c: Mario Di Tommaso, O.O.M.
Deputy Solicitor General, Community Safety